

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 673
Ways and Means

(Delegate C. Davis, *et al.*)

Public Education Bridge to Excellence - Funding - Video Lottery Terminals

This bill authorizes up to 16,500 video lottery terminals (VLTs) at 10 locations (6 horse racing license holders and 4 unspecified nontrack locations); provides for one-time application fees; provides for the distribution of VLT proceeds; creates the Education Trust Fund (ETF) and other special funds; and continues the current prohibition on additional forms of commercial gambling. Awarding of a VLT license is subject to specified requirements, including local approval.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: If none of the VLT licensees meet the specified local approval provisions, the bill will have no fiscal effect. To the extent that local approval provisions are met, significant increase in general fund revenues due to one-time application fees, somewhat offset by a decrease in lottery sales. Special fund revenues and expenditures would increase for lottery agency administrative expenses, local aid, purse dedication, bred funds, gambling addiction treatment expenditures, education, and other specified distributions. The amount of additional net revenue depends on how many VLT licensees meet the specified local approval provisions, and cannot be reliably estimated at this time.

Local Effect: Revenues for localities that grant approval to specified VLT facilities would increase significantly. Local expenditures would increase significantly for local governments with VLT facilities.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The major provisions of the bill are as follows:

Video Lottery Terminals and Locations

The bill authorizes a total of 16,500 VLTs in the State – 2,500 VLTs each at Pimlico Race Course, Laurel Park, and Rosecroft Raceway; 1,000 VLTs at a race track built in Allegany County, Ocean Downs, and an unspecified holder of a standardbred racing license; and 1,500 VLTs each at four nontrack locations (emporia) to be auctioned by the State Lottery Commission.

The bill reiterates the current prohibition on additional forms of gambling, other than those currently authorized under State law (lottery, horse racing, and charitable gambling). The State Lottery Commission will provide regulation and oversight of the VLT program.

Distribution of Video Lottery Terminals Proceeds

The Comptroller is required to distribute the proceeds of VLT operations, which must be transferred electronically on a daily basis to the State Lottery Fund.

- An unspecified amount to the State Lottery Agency for administrative costs;
- 2.0% for the Maryland-bred and Maryland standardbred race funds;
- 7% to the Purse Dedication Account (PDA) to enhance horse racing purses;
- 0.5% to the Maryland State Fair;
- 4.75% to the local governments in which video lottery facilities are operating (only Laurel Park, Rosecroft, Pimlico, and the Allegany track are required to make this distribution);
- \$500,000 to the Department of Health and Mental Hygiene (DHMH) for compulsive gambling programs; and
- \$500,000 to the Department of Agriculture for agricultural and equestrian activities.

After making the above required distributions, operators are to receive one-half of the remaining revenues. The remaining revenue is to be distributed to the ETF established by the bill.

VLT License Applicant Requirements

The bill provides for two different VLT licenses – one for racetracks and one for nontrack locations. The bill requires that all VLT license applicants receive approval of the proposed facility from the county governing body in which the facility will be located. The State Lottery Commission may grant a horse racing VLT license only if the applicant agrees to provide simulcasting of its live racing to holders of nontrack licenses. The State Lottery Commission may grant a nontrack VLT license only if the applicant agrees to broadcast the simulcast signal from horse racing VLT licensees. All VLT horse racing license applicants, except Allegany, are required to submit an application and \$5 million fee to the State Lottery Commission by October 1, 2005. Nontrack VLT license applicants and Allegany must submit an application and \$5 million fee by October 1, 2007 (the Allegany track is required to submit a \$1.5 million fee). No more than two licenses of any class can be issued in a county.

VLT licensees must meet the State's minority business participation requirements for facility construction and procurement and meet the county's minority business participation requirements, to the extent practicable, if they are higher than the State's.

In addition, nontrack VLT licensees, Pimlico, Rosecroft, and Laurel Park applicants must also invest at least \$150 million in construction and related costs; provide at least 500 full-time jobs (other race track applicants are required to invest \$10 million and provide at least 150 jobs).

As a condition of licensure, a track licensee must maintain the following number of live racing days:

- 220 days for the combined licenses at Laurel and Pimlico;
- 180 days for the Rosecroft license; and
- 21 days for all other racetracks.

If either the Preakness Stakes or Woodlawn Vase is transferred out of the State, the VLT operation license for Pimlico and Laurel Park will be revoked. In addition, the Maryland Million must be conducted annually at Laurel Park.

As a condition of licensure for racetracks, each track licensee must develop a racing improvement plan to improve the quality and marketing of horse racing at the track. The plan must include \$4 million of annual capital maintenance and improvements of the horse racing facilities for Pimlico, Rosecroft, and Laurel Park (all other tracks are required to make \$1.15 million in improvements annually).

Lottery Commission Authority and Duties

VLTs will be owned or leased by the State Lottery Commission and under the control of the commission at all times. One member of the State Racing Commission will serve as a liaison to the lottery commission.

The commission has authority to issue subpoenas and conduct investigations and hearings and require a bond for faithful performance of the requirements of the bill. Commission employees must be present at VLT facilities during all hours of VLT operation for the purpose of certifying revenue from VLTs and receiving complaints from the public. The commission is required to adopt regulations to establish the auction process for nontrack VLT licenses.

VLT Licenses

Licenses must be obtained by VLT operators, VLT manufacturers, VLT employees, and anyone hired by a VLT operator to manage a VLT facility.

All applicants for VLT-related licenses are subject to an application process that involves a State and national criminal history records check. All applicants for VLT-related licenses must establish their qualifications including financial stability and background of the applicant and all individuals and business entities associated with the applicant; integrity of financial backers and investors; good character and honesty; and sufficient business ability and experience.

A VLT operation license applicant must provide additional information that includes the financial structure of the entity and names, personal history, and criminal history of all officers, partners, and principal employees; the names of all holding companies, subsidiaries, or other business entities of the applicant; and the names of all persons who own or control the business entity as well as a description of all bonus and profit-sharing agreements.

The term of a VLT operation license is 15 years. The bill does not specify a renewal process. The bill provides that a VLT-related license is a revocable privilege and that it is the intent of the bill to prohibit the creation of a property right in a license granted under the bill.

Any VLT license issued under the bill may not be transferred, sold, or pledged as collateral. A licensee may not sell or transfer more than 5% of the legal or beneficial ownership in the licensee without the approval of the commission.

Other Regulation of Video Lottery Operations and Consumer Protections

The bill prohibits a VLT operation licensee from offering food (except finger food and the like) and beverages, including alcoholic beverages, for free or for a price that is lower than the prices in the county where the VLT facility is located.

The commission must adopt regulations to reduce or mitigate the effects of problem gambling, including provisions that provide for mandatory exclusion of career offenders from VLT facilities; procedures that permit self-exclusion from VLT facilities for individuals with gambling problems; limits on the dollar amount that VLT machines will accept; payouts of winnings above a certain amount by check; limits on the number, location, and maximum withdrawal amounts for ATMs; conspicuous disclosures related to VLT payouts and odds; and consumers being given a record of spending levels to the extent that marketing measures that track customer spending are used.

Purse Dedication Account

The bill creates a PDA to which 7.0% of gross proceeds from all VLT facilities will be distributed. Funds from the account are to each breed based on the amount wagered, number of racing days, and live attendance at tracks for each breed.

Education Trust Fund

The bill creates an ETF as a special, nonlapsing fund that will receive an indeterminate share of gross VLT revenues from the fund the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288 of 2002).

Local Development Councils and Transportation

From the local development grants provided to the areas where VLT facilities are located, the proceeds are intended to be used for infrastructure improvements, public safety, and other needs in the communities in the immediate proximity of the facility. A Local Development Council would be created in each area where a VLT facility is located to advise, comment, and make recommendations on a plan developed by the county providing for the use of the Local Development Grant funds. The bill also provides that the State may pay for the reasonable transportation costs necessary to mitigate the impact on the communities in immediate proximity to the VLT facilities and to make VLT facilities accessible to the public.

Compulsive Gambling Fund

In addition to the \$500,000 distribution from all the proceeds of all VLT facilities, the bill assesses a \$390 fee per VLT terminal to be paid by VLT operation licensees that will be placed into a Compulsive Gambling Fund administered by DHMH. The fund must be used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

Other Provisions

The Governor's Office of Minority Affairs must monitor compliance with applicable minority participation requirements in equity sales and facility construction. In addition, two studies must be conducted to evaluate the State's continued compliance with federal and Constitutional requirements related to minority participation provisions.

Current Law: Specified types of gambling are allowed in Maryland. This includes the State lottery and wagering on horse racing. Bingo, bazaars, and gaming nights are allowed for some nonprofit organizations on a county-by-county basis. Several counties permit for-profit bingo. In addition, some nonprofit organizations in Eastern Shore counties are allowed to operate up to five slot machines, provided that at least 50% of the proceeds go to charity. VLTs are not authorized for operation in the State. For more information on gambling and horse racing in Maryland, consult the *Legislators' Guide to Video Lottery Terminal Gambling*.

Background: Over the past several legislative sessions, various proposals have been introduced to authorize VLTs at the State's horse racing tracks or other tourist destinations in the State. Numerous states have authorized VLT gambling. For more information on prior year introductions and other state VLT regimes, consult the *Legislators' Guide to Video Lottery Terminal Gaming*.

State Revenues: Special fund revenues and expenditures could increase significantly to the extent that the local approval provisions of the bill are met.

State Expenditures: The following agencies' and programs' expenditures would be affected if local governments grant approval of the VLT facilities:

State Lottery Agency

The State Lottery agency is to receive an indeterminate share of VLT revenues for administrative expenses. The Lottery Agency states that it will need 54 additional

employees. The agency estimates a budget request of approximately \$13 million will be needed for fiscal 2006 to pay for potential start-up costs associated with VLT operations.

Education Expenditures

State VLT revenues after operating costs are dedicated to the ETF to be used for public education programs associated with the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288). Under Chapter 288 there are significant increases in education aid beginning with fiscal 2005. It is assumed that the availability of the ETF revenues to fund the increase in education mandated by Chapter 288 would result in an equivalent decrease in general fund expenditures beginning in fiscal 2008.

Compulsive Gambling Fund

The bill assesses a \$390 fee per VLT to be paid by VLT operation licensees that will be placed into a Compulsive Gambling Fund administered by DHMH. The fund must be used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

Attorney General and State Police

Expenditures at the Office of the Attorney General and State Police would increase due to the costs associated with supporting the VLT program. The extent and timing of the costs depends on the number of licenses awarded.

Infrastructure Costs

The State and local governments could also incur significant costs associated with infrastructure upgrades at each of the racetracks and nontrack locations. The actual costs are site specific and could range from adding more traffic signs and lights to significantly altering existing traffic routes and adding access from other major thoroughfares. The Maryland Department of Transportation (MDOT) states that estimating these costs is not possible until plans are developed and traffic studies are completed.

Indirect State Expenditures

In addition to the positive indirect effects to the economy, negative impacts could be expected as well. These effects could include increased levels of crime, unemployment, and personal bankruptcies which could result in a need to significantly increase the State and local spending directed toward these effects. Although these costs cannot be reliably estimated, the Department of Legislative Services (DLS) estimates that these costs are

likely to be greater than the funds dedicated to the Compulsive Gambling Fund under this bill. For a more in-depth discussion about the possible social costs as a result of authorizing VLTs, consult the *Legislator's Guide to Video Lottery Terminal Gambling*.

Local Revenues: The bill provides local impact aid for jurisdictions in which certain VLT operations are located. This aid is to be used for infrastructure, facilities, services, and other improvements. Of VLT gross proceeds generated by Laurel, Pimlico, and Rosecroft collectively: Baltimore City and Prince George's County are to receive 1.78% each; Anne Arundel County 0.7%; Howard County 0.33%; and Laurel 0.16%. For the Allegany track 4.75% of gross proceeds will be distributed to Allegany County. VLT revenues from other facilities are not distributed to local governments.

Indirect Local Revenues

The local jurisdictions where VLT facilities are located would also benefit from increased real property tax collections. In addition, if the Lottery Agency decides to lease VLTs from a VLT manufacturer, local jurisdictions would benefit from increased personal property taxes assessed on VLT machines and paid by the lessor. To the extent that expenditures on items subject to admissions and amusement taxes are transferred to VLT wagering, local revenues could decline. Local revenues would also be affected by any changes in property values, positive or negative, occurring because of the introduction of VLTs. This effect cannot be reliably estimated at this time.

Local Expenditures: VLT facilities will have a substantial impact on the local areas in which they are located and will necessitate additional local expenditures. For example, Dover Downs and Delaware Park each attracted over 2 million visitors in 2003. These facilities have approximately 2,000 VLTs.

Small Business Impact: To the extent that VLT facilities purchase goods from local businesses that are small businesses, these small businesses would benefit. Small business horse industry breeders and owners in the thoroughbred and standardbred racing industry would benefit. Some small businesses would benefit from additional tourists, partially offset by some small businesses that would be harmed as a result of tourists substituting VLT wagering for other expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Lottery Agency, State Police, Office of Attorney General, Department of Legislative Services

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